



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
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April 1, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to be "W. T. Fujioka", is written over the printed name and title.

MOTION TO SUPPORT SENATE BILL 4 (PAVLEY) AND OTHER FRACKING-RELATED LEGISLATION WHICH WOULD PROVIDE SB 4'S LEVEL OF PROTECTION FOR PUBLIC HEALTH AND SAFETY; INSTRUCT THE COUNTY'S LEGISLATIVE ADVOCATES IN SACRAMENTO TO TAKE APPROPRIATE ACTIONS TO ENSURE PASSAGE OF THIS LEGISLATION; AND NOTIFY THE BOARD OF ANY SUBSTANTIVE REVISIONS THAT MODIFY THE INTENT OF SB 4. (ITEM NO. 55-B, SUPPLEMENTAL AGENDA OF APRIL 2, 2013)

Item No. 55-B on the April 2, 2013 Supplemental Agenda is a motion by Supervisor Yaroslavsky to support Senate Bill 4 (Pavley), legislation which provides a comprehensive statutory framework for fracking regulation in California, and support other fracking-related legislation which would provide SB 4's level of protection for public health and safety; instruct the County's legislative advocates in Sacramento to take appropriate actions to ensure passage of this legislation; and notify the Board of any substantive revisions that modify the intent of SB 4.

Background

Existing law requires that the California Division of Oil, Gas, and Geothermal Resources (DOGGR) supervise activities related to drilling, operation, maintenance, and abandonment of oil and gas wells, tanks, and facilities in the State to protect groundwater, public health and safety, and the environment through adherence to high construction standards and maintenance of the well's integrity. These protections must remain intact, regardless of the production stimulation techniques applied to the geologic formation through the well. DOGGR is required to collect information and

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prepare maps regarding the location of oil and gas wells and the extent to which groundwater and surface water for irrigation or domestic purposes might be affected. An operator of any well, before commencing the work of drilling the well, is required to file with DOGGR a written notice of intention to commence drilling and is authorized to commence drilling only after DOGGR has approved the notice of intention.

On December 18, 2012, DOGGR released a "discussion draft" of regulations for the oil and natural gas production technique known as hydraulic fracturing ("fracking"). The discussion draft of the regulations is meant to be a starting point for discussion about hydraulic fracturing in advance of the formal rule-making process, which is anticipated to begin later in 2013. The draft regulations include provisions for pre-fracturing well testing; advance notification; monitoring during and after fracturing operations; disclosure of materials used in fracturing fluid; trade secrets; and storage and handling of hydraulic fracturing fluids.

The discussion draft regulations require: 1) pre-fracture testing to make sure the well through which the hydraulic fracturing will occur is competent to withstand the process; 2) notice by operators of pre-fracturing testing at least 10 days prior to fracking and 24 hours advance notice before hydraulic fracturing is to commence to allow DOGGR to witness the operation; 3) monitoring during fracturing operations to detect unexpected changes and to remediate problems encountered before resuming hydraulic fracturing; 4) monitoring of pressures, conditions and production rates after fracturing operations; 5) disclosure by operators of information about the fracturing operations, including the operator's name, the well and location, depth of the well, name of the geologic formation fractured, the list of chemicals used in the fracking process, and the disposition of the fluid used in the process; 6) a process to invoke trade secret protection for the chemical composition of the fracturing fluids use if the operator can demonstrate that the secret would compromise that advantage, that the information has not been disclosed elsewhere, and that the fluid or substance cannot be reverse engineered to discover its composition; and 7) clarification that the storage and handling of hydraulic fracturing fluids are subject to current laws and regulations governing notification, response and clean-up of spills in the oil field environment.

The California Division of Oil, Gas, and Geothermal Resources has held three stakeholder workshops in Los Angeles, Bakersfield and Sacramento to present an overview of the discussion draft of the hydraulic fracturing regulations and receive input. Additional workshops are planned for the Santa Barbara and Monterey areas. DOGGR has indicated that the duration of the rulemaking process will depend on the extent of public participation and the number of revisions the made to the regulations during the process. However, they estimate that the formal rulemaking process will take eight to ten months to complete.

Senate Bill 4 (Pavley) – Comprehensive Regulation of Fracking

SB 4 (Pavley), as amended on March 11, 2013, would require an independent scientific study on fracking be conducted by January 1, 2015. This study will evaluate the hazards and risks and potential hazards and risks that hydraulic fracturing treatments pose to natural resources and public, occupational, and environmental health and safety. The study would also be required to address induced seismicity associated with fracking. SB 4 would require the DOGGR, on or before January 1, 2015, to adopt rules and regulations specific to hydraulic fracturing that include: 1) full disclosure of the composition and disposition of hydraulic fracturing fluids; 2) public reporting and disclosure of fracking into existing regulatory processes; 3) requirements that operators obtain a permit for fracking; 4) requirement of 30 days advance notice to the public, DOGGR, and the regional water quality control board of intent to frack a well; 5) baseline and follow-up water quality testing on water wells and surface water by the regional water board; 6) requirement that DOGGR develop and maintain a website for fracking information by January 1, 2016; and 7) trade secret protection for chemical formulas extended to the oil and gas industry.

Senator Pavley has stated SB 4 is motivated by the public's right to know about hydraulic fracturing operations in the State. The Senator has also stated that while DOGGR's discussion draft regulations contain some positive elements, the overall proposal is inadequate and fails to address the public's concerns about transparency or provide for regulatory accountability. Additionally, in February 2013, Senator Pavley co-chaired a legislative informational hearing on hydraulic fracturing which revealed poor coordination between regulators, significant gaps in regulation, and lack of available data related to fracking, including waste disposal.

Senate Bill 4 is supported by the California Association of Professional Scientists, Paw PAC, and the South Coast Air Quality Management District. There is currently no registered opposition to the bill.

SB 4 has been referred to the Senate Natural Resources and Water Committee and is scheduled for hearing on April 9, 2013.

County Impact

The Department of Public Works (DPW) reports that the technique of hydraulic fracturing is used to increase or restore the rate at which fluids, such as oil and gas, can be produced from an underground reservoir. Hydraulic fracturing employs the use of chemicals, gels, foams, other fluids, or compressed gases which are injected into rock which causes the formation to crack, allowing the fracturing fluid to enter and extend the

crack farther into the formation. To keep this fracture open after the injection stops, a solid proppant, a material inserted or injected into the underground geologic formation that is intended to prevent fractures from closing, is added to the fracture fluid. The propped hydraulic fracture then becomes a high permeability conduit through which the formation fluids can flow to the well.

The Department notes that the hydraulic fracturing technique has come under increasing scrutiny over the years as it presents a potential hazard to groundwater quality, air quality, and even seismic safety. The hydraulic fracturing industry has largely refused to publicly disclose, due to intellectual property concerns, the specific formulation of the fluids employed in the fracturing process.

The Department of Public Work further indicates that oil production in Los Angeles County is anticipated to be active in the coming years, with projected expansion of oil production. Some of the active drilling operations and proposed new operation are in relative proximity to local groundwater resources that provide a drinking water supply for the County's residents.

Previous Board Action

The County has various Board-approved environmental policies in the State and Federal Legislative Agendas that are generally supportive of environmental protection from hazardous chemicals, but none specifically related to the use of hydraulic fracturing for oil and gas extraction. However, the Board has taken various actions in regards to regulations, safeguards and controls over oil drilling and production activities:

- In 2006, the Board adopted an Interim Ordinance (No. 2006-0050U) to place a temporary restriction on oil and gas drilling in the Inglewood Oil Field. The ordinance was extended in 2007 and expired on June 26, 2008;
- In February 2008, the Board adopted a motion authorizing the Director of Regional Planning to enter into an agreement with the Inglewood Oil Field operator, whereby the operator would adhere to the provisions of the Interim Ordinance until a Community Standards District (CSD) took effect;
- In October 2008, the Board voted to approve the CSD, which established regulations, safeguards and controls over activities related to drilling for and production of oil in the unincorporated portion of the Inglewood Oil Field;

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- On May 24, 2011, the Board adopted a motion instructing the Sacramento advocates to support AB 591 (Wieckowski), which would have required the disclosure of chemicals used in hydraulic fracturing treatments and would have established statutory and regulatory protections against potential groundwater contamination caused by hydraulic fracturing processes. This bill died in the Senate Appropriations Committee;
- In 2012, the County supported AB 972 (Butler), which would have imposed a moratorium on hydraulic fracturing until DOGGR adopted regulations to govern the process. This bill died in the Senate Appropriations Committee.

Conclusion

The Department of Public Works and this office recommend that the County support SB 4 and other fracking-related legislation because adoption of the proposed provisions would provide regulatory safeguards intended to protect groundwater supplies, public health and safety, and the environment. **However, because there is no specific Board-approved policy relating to hydraulic fracturing or “fracking,” support for this motion is a matter of Board policy determination.**

We will continue to keep you advised.

WTF: RA
MR:AO:lm

c: Executive Office, Board of Supervisors
County Counsel
Department of Public Works